

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND**

**RUSSIAN RESEARCH CENTER
THE KURCHATOV INSTITUTE,**

Plaintiff,

v.

WESTERN SERVICES CORP., et al.,

**Defendants and
Third-Party Plaintiff,**

v.

GSE SYSTEMS, INC.

**Third-Party
Defendants.**

Case No.: AMD 02-3878

**MOTION TO EXCLUDE THE TESTIMONY OF SEMEN MALKIN
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 37(d)**

Defendants Western Services Corp. and Mr. George Utmel (collectively, “Western”), through undersigned counsel, hereby move for the exclusion of the testimony of Semen Malkin with regard to any motion, hearing or trial related to this matter due to Kurchatov’s representation that Mr. Malkin will not appear for a properly noted deposition.

The scheduling of Mr. Malkin’s deposition has already been the subject of a Motion to Compel. That Motion was withdrawn upon the offer of Kurchatov’s counsel to make Mr. Malkin and Mr. Rakitin (another Kurchatov officer) available for five days

during the week of September 14th. After Western duly noted Mr. Malkin's deposition to begin September 15 (and withdrew its motion to compel), Kurchatov requested that the deposition dates be changed. Despite the efforts of Western and its counsel, new dates could not be coordinated because Kurchatov asked for part of the deposition to take place on a Saturday but refused to pay the extra costs of a weekend deposition. Kurchatov nonetheless announced that Mr. Malkin would not appear on Monday, September 15, 2003. Accordingly, Western seeks to preclude Mr. Malkin from testifying regarding any motion, hearing or trial of this matter pursuant to Federal Rule of Civil Procedure 37(d).

Further grounds in support of this Motion are discussed in the accompanying Memorandum.

Respectfully submitted,

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By: _____/s/_____
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Dated: August 14, 2003